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**JUN 28 2005**

**OFFICE OF PETITIONS**

In re Application of  
Vilhonen et al.  
Application No. 10/054,568  
Filed: January 22, 2002  
Attorney Docket No. \*

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: **DECISION REGARDING PTA LETTER**  
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This decision is in response to applicants' "LETTER REGARDING PATENT TERM ADJUSTMENT" filed December 10, 2004. Applicants assert that the PTA adjustment appears to be longer than appropriate. The Office thanks applicant for their good faith and candor in bringing this matter to the attention of the Office.

Applicants' letter regarding PTA is **DISMISSED**. Applicants are given thirty days to reply to this letter. No extensions of time under 37 CFR 1.136 will be granted.

Applicants have submitted a letter suggesting that the PTA "appears on its face to be larger than appropriate." Applicants did not provide information as to why the determination was greater than it should have been.

A review of the PTA history verifies that the PAIR determination is accurate. The Office failed to initially act on the application within fourteen months of the filing of the application. See 37 CFR 1.702(a)(1). The delay was for a period of five hundred and six (506) days.<sup>1</sup> There were no further delays by the Office nor were there any delays by applicant occurring prior to the mail date of the notice of allowance.<sup>2</sup>

After the mailing of this decision, the Office will forward this application to the Office of Patent Publication for a prompt issuance of the application. Any PTA delays by the Office in issuance of the patent will be reflected in the issue notification letter.

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<sup>1</sup>The delay began on March 23, 2003(day after 14 months from filing date) until the mailing of the notice of allowance on October 8, 2004.

<sup>2</sup>The Office notes that applicants submitted a 312 amendment after the mail date of the notice of allowance. However, 312 amendments will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application until issuance of the patent and will be reflected in the issue notification letter mailed to applicants approximately three weeks prior to the issuance of the patent.

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Because applicants are advising the Office that too much PTA has accrued, the Office considers such advisement as a good faith and candor letter. Accordingly, no fee is assessed with this letter.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.



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